

Panaji, 12th September, 1996 (Bhadra 21, 1918)

SERIES I No. 24

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note: 1) There is one Extraordinary issue to the Official Gazette, Series I No. 23 dated 5-9-96, namely, Extraordinary dated 5-9-96 from pages 303 to 304, regarding Notifications from Department of Labour and Department of Law (Establishment) Division.

2) The page Nos. of the Official Gazette (Extraordinary) Series I No. 22 dated 29-8-96 may be corrected as 295 to 296, instead of 289 to 290. Consequently the page Nos. of the Extraordinary No. 2 dated 2-9-96 and of the Series I No. 23 dated 5-9-96 be read as 295 to 296 and 297 to 302 instead of 291 to 292 and 293 to 298 respectively.

GOVERNMENT OF GOA

Department of Law and Judiciary

Legal Affairs Division

Notification

12/2/94-95/LA

The National Environment Tribunal Act, 1995 (Central Act 27 of 1995), which has been passed by Parliament and assented to by the President of India on 17th June 1995, and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 19th June, 1995, is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 16th November, 1995.

THE NATIONAL ENVIRONMENT TRIBUNAL ACT, 1995

(Arrangement of Sections)

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THE SCHEDULE

THE NATIONAL ENVIRONMENT TRIBUNAL ACT, 1995

AN
ACT

to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto.

Whereas decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to develop national laws regarding liability and compensation for the victims of pollution and other environmental damages;

And Whereas it is considered expedient to implement the decisions of the aforesaid Conference so far as they relate to the protection of environment and payment of compensation for damage to persons, property and the environment while handling hazardous substances;

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the National Environment Tribunal Act, 1995.

(2) It shall come into force on such date or dates as the Central Government may, by notification, appoint, and different dates may be appointed for different States and any reference in any provision of this Act to the commencement of this Act shall be construed in relation to any State or part thereof as a reference to the coming into force of that provision in that State or part thereof.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “accident” means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or intermittent or repeated exposure to death of, or injury to, any person or damage to any property or environment but does not include an accident by reason only of war or radio-activity;

(b) “Bench” means a Bench of the Tribunal;

(c) “Chairperson” means the Chairperson of the Tribunal;

(d) “environment” includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;

(e) “handling”, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(f) “hazardous substance” means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified by the Central Government under the Public Liability Insurance Act, 1991; 29 of 1986. 6 of 1991.

(g) “Judicial Member” means a Member of the Tribunal appointed as such under this Act, and includes the Chairperson or a Vice-Chairperson who possesses any of the qualifications specified in sub-section (3) of section 10;

(h) “Member” means a Member (whether Judicial or Technical) of the Tribunal and includes the Chairperson and a Vice-Chairperson;

(i) “notification” means a notification published in the Official Gazette;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “rules” means the rules made under this Act;

(l) “Technical Member” means a Member of the Tribunal who is not a Judicial Member within the meaning of clause (g);

(m) “Tribunal” means the National Environment Tribunal established under section 8;

(n) “Vice-Chairperson” means the Vice-Chairperson of the Tribunal.

Explanation.— In the case of the Tribunal having two or more Vice-Chairpersons, references to the Vice-Chairperson in this Act shall be construed as a reference to each of those Vice-Chairpersons;

(o) "owner" means a person who owns, or has control over handling, any hazardous substance at the time of accident and includes,—

- (i) in the case of a firm, any of its partners;
- (ii) in the case of an association, any of its members; and
- (iii) in the case of a company, any of its directors, managers, secretaries or other officers who is directly in charge of, and is responsible to, the company for the conduct of the business of the company.

CHAPTER II

Compensation for Death of, or Injury to, A person and Damage to Property and Environment

3. *Liability to pay compensation in certain cases on principle of no fault.*— (1) Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident, the owner shall be liable to pay compensation for such death, injury or damage under all or any of the heads specified in the Schedule.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death, was injury or damage in respect of which the claim has been made due to any wrongful act, neglect or default of any person.

Explanation.— For the purposes of this section,—

- (i) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923; 8 of 1923.
- (ii) "injury" includes permanent total or permanent partial disability or sickness resulting out of an accident.

(3) If the death, injury or damage caused by an accident cannot be attributed to any individual activity but is the combined or resultant effect of several such activities, operation and processes, the Tribunal may apportion the liability for compensation amongst those responsible for such activities, operations and processes on an equitable basis.

4. *Application for claim for compensation.*— (1) An application for claim for compensation may be made—

- (a) by the person who has sustained the injury;
- (b) by the owner of the property to which the damage has been caused;
- (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased;
- (d) by any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be;
- (e) by any representative body or organisation, functioning in the field of environment and recognised in this behalf by the Central Government, under all or any of the heads specified in the Schedule; or

(f) by the Central Government or a State Government or a local authority under all or any of the heads specified in the Schedule:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

(2) The Tribunal may, if it thinks fit, take up the cases for claims for compensation *suo motu*.

(3) Any claimant making an application under sub-section (1) may also make an application before the Tribunal for such relief as is provided in the Public Liability Insurance Act, 1991: 6 of 1991.

Provided that no such application shall be made if the relief has been received by the claimant earlier or an application made by the claimant to the Collector under the said Act is pending and has not been withdrawn.

(4) The Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of the matters specified in the Public Liability Insurance Act, 1991 as the Collector has and may exercise and, for this purpose; the provisions of that Act shall have effect subject to the modification that the references therein to the Collector shall be construed as including a reference to the Tribunal.

(5) Every application under sub-section (1) shall be made to the Tribunal and shall contain such particulars and shall be accompanied by such documents and such fee, not exceeding one thousand rupees, as may be prescribed:

Provided that no fee shall be payable by a person whose annual income is below the prescribed limit or by a representative body or organisation referred to in clause (e) of sub-section (1) or by the Central Government, a State Government or a local authority.

(6) No application for compensation shall be entertained unless it is made within five years of the occurrence of the accident.

5. *Procedure and powers of Tribunal.*— (1) On receipt of an application under sub-section (1) of section 4, the Tribunal may, after such inquiry as it may deem fit, reject the application summarily.

(2) Where the Tribunal does not reject the application under sub-section (1), the Tribunal may, after giving notice of the application to the owner and after giving the parties an opportunity of being heard, hold an inquiry into the claim or each of the claims and may make an award determining the amount of compensation which appears to be just and specifying the person or persons to whom such amount of compensation shall be paid.

(3) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal shall have power to regulate its own procedure including the fixing of places and time of its inquiry. 5 of 1908.

(4) The Tribunal shall have for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or copy of such record or document from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application or default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

(i) any other matter which is to be, or may be, prescribed.

6. *Conditions as to making of interim orders.*— Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an application unless—

(a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss or damage being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

7. *Reduction of amount of relief paid under any other law.*— Where in respect of death of, or injury, to any person or damage to any property, the owner, liable to pay compensation under this Act, is also liable to pay any amount as relief under the Public Liability Insurance Act, 1991 or any other compensation under any other law, the amount of compensation payable under this Act shall be reduced by the amount of relief and other compensation paid under any other law. 6 of 1991.

CHAPTER III

Establishment of National Environment Tribunal and Benches Thereof

8. *Establishment of National Environment Tribunal.*— The Central Government shall, by notification, establish a Tribunal, to be known as the National Environment Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

9. *Composition of Tribunal and Benches thereof.*— (1) The Tribunal shall consist of a Chairperson and such number of Vice-Chairpersons, Judicial Members and Technical Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson—

(a) may, in addition to discharging the functions of the Judicial Member of the Technical Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(b) may transfer the Vice-Chairperson or other Member from one Bench to another Bench;

(c) may authorise the Vice-Chairperson or the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Vice-Chairperson or, as the case may be, the Judicial Member or the Technical Member of another Bench; and

(d) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than two Members, issue such general or special orders, as he may deem fit:

Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Technical Member.

(4) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairperson or any other Member authorised by the Chairperson in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairperson may, by general or special order, specify:

Provided that if at any stage of the hearing of any such case or matter, it appears to the Chairperson or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer to such Bench as the Chairperson may deem fit.

(5) Subject to the other provisions of this Act, the Benches of the Tribunal shall ordinarily sit at New Delhi (which shall be known as the principal Bench) and at such other places as the Central Government may, by notification, specify.

10. *Qualifications for appointment as Chairperson, Vice-Chairperson or other Member.*—(1) A person shall not be qualified for appointment as the Chairperson unless he—

(a) is, or has been, a Judge of the Supreme Court or a High Court; or

(b) has, for at least two years, held the office of Vice-Chairperson.

(2) A person shall not be qualified for appointment as the Vice-Chairperson unless he—

(a) is, or has been, a Judge of a High Court; or

(b) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; or

(c) (i) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; and

(ii) has adequate knowledge of, or experience in, legal, administrative, scientific or technical aspects of the problems relating to environment; or

(d) has for at least three years, held office as a Judicial Member or a Technical Member.

(3) A person shall not be qualified for appointment as a Judicial Member unless he—

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in grade I of that Service for at least three years.

(4) A person shall not be qualified for appointment as a Technical Member unless he has adequate knowledge of, or experience in, or capacity to deal with, administrative, scientific or technical aspects of the problems relating to environment.

(5) Subject to the provisions of sub-sections (6) and (7), the Chairperson, Vice-Chairperson and every other Member of the Tribunal shall be appointed by the President.

(6) No appointment of a person possessing the qualifications specified in this section as the Chairperson or the Vice-Chairperson shall be made except after consultation with the Chief Justice of India.

(7) No appointment of a person as a Judicial Member or a Technical Member shall be made except on the recommendation

of a Selection Committee appointed by the Central Government consisting of the following, namely:—

- | | |
|--|---|
| (a) Chairperson of the Tribunal | Chairperson of the Committee, <i>ex officio</i> ; |
| (b) Secretary to the Government of India in the Ministry of Environment and Forests | member, <i>ex officio</i> ; |
| (c) Secretary to the Government of India in the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) | member, <i>ex officio</i> ; |
| (d) Director-General, Council of Scientific and Industrial Research | member, <i>ex officio</i> ; |
| (e) an Environmentalist to be nominated by the Central Government | member. |

11. *Vice-Chairperson to act as Chairperson or to discharge his functions in certain circumstances.*— (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson or, as the case may be, such one of the Vice-Chairpersons, as the Central Government may, by notification, authorise in this behalf, shall act as the Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairperson, or, as the case may be, such one of the Vice-Chairpersons, as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

12. *Term of office.*— The Chairperson, Vice-Chairperson and other Member shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years:

Provided that no Chairperson, Vice-Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of seventy years;

(b) in the case of the Vice-Chairperson, the age of sixty-five years; and

(c) in the case of any other member, the age of sixty-two years

13. *Resignation and removal.*— (1) The Chairperson, Vice-Chairperson or other Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairperson, Vice-Chairperson or other Member shall unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson, Vice-Chairperson or any other Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson, Vice-Chairperson or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson or other Member referred to in sub-section (2).

14. *Salaries and allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and other Members.*— The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Vice-Chairperson and other Member shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Vice-Chairperson or other Member shall be varied to his disadvantage after his appointment.

15. *Provision as to the holding of Offices by Chairperson, etc. on ceasing to be such Chairperson, etc.*— On ceasing to hold office,—

(a) the Chairperson of the Tribunal shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Vice-Chairperson of the Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairperson of the Tribunal but not for any other employment either under the Government of India or under the Government of a State;

(c) a Member (other than the Chairperson or Vice-Chairperson) of the Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairperson or Vice-Chairperson of the Tribunal or as the Chairperson, Vice-Chairperson or Member of any other Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(d) the Chairperson, Vice-Chairperson or other Member shall not appear, act or plead before the Tribunal.

Explanation.— For the purposes of this section, employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or under any corporation or society owned or controlled by the Government.

16. *Financial and administrative powers of Chairperson.*— The Chairperson shall exercise such financial and administrative powers over the Benches as may be vested in him under the rules:

Provided that the Chairperson shall have authority to delegate such of his financial and administrative powers as he may think fit

to the Vice-Chairperson or any other officer of the Tribunal subject to the condition that the Vice-Chairperson or such officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

17. *Staff of the Tribunal.*— (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

18. *Distribution of business amongst the Benches.*— (1) Where any Benches of the Tribunal are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Tribunal amongst the Benches and specify the matters which may be dealt with by each bench.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench, the decision of the Chairperson shall be final.

Explanation.— For the removal of doubts, it is hereby declared that the expression “matters” includes applications for interim relief.

CHAPTER IV

Jurisdiction and Proceedings of the Tribunal

19. *Bar of jurisdiction.*— On and from the commencement of this Act, no court or other authority except the Tribunal shall have, or be entitled to exercise, any jurisdiction, powers or authority to entertain any application or action for any claim for compensation which may be entertained or dealt with by the Tribunal.

20. *Power of Chairperson to transfer cases from one Bench to another.*— On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench, for disposal, to any other Bench.

21. *Decision to be taken by majority.*— If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case including those who first heard it.

22. *Deposit of amount payable for damage to environment.*— (1) Where any amount of compensation is ordered to be paid under any award by the Tribunal on the ground of any damage to environment, that amount shall be remitted to the authority specified under sub-section (3) of section 7A of the Public Liability Insurance Act, 1991 for being credited to the Environmental Relief Fund established under that section. 6 of 1991.

(2) The amount of compensation credited to the Environmental Relief Fund under sub-section (1) may be utilised by such person or authority, in such manner and for such purposes of environment as may be prescribed.

23. *Execution of award or order of Tribunal.*— (1) An award made by the Tribunal under this Act shall be executable by the Tribunal as a decree of civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit to the Collector having jurisdiction over the area in which the accident has occurred the copy of the order made by it for payment of relief as provided in the Public Liability Insurance Act, 1991 and the Collector shall execute the order 6 of 1991, in the same manner as if it were an order made by him under that Act.

(3) Where the owner against whom the award or order is made by the Tribunal fails to make the payment or deposit the amount as directed by the Tribunal within the period specified in the award or order, such amount shall be recoverable from the owner as arrears of land revenue or of public demand.

24. *Appeals.*— (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal 5 of 1908. shall lie against any award or other order, not being an interlocutory order, of the Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

(2) No appeal shall lie against an award or other order made by the Tribunal with the consent of the parties:

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the award or other order appealed against:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the Supreme Court unless he has deposited with it the amount so awarded in the manner directed by the Supreme Court:

Provided further that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days; if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

CHAPTER V

Miscellaneous

25. *Penalty for failure to comply with orders of Tribunal.*— Whoever fails to comply with any order made by the Tribunal, he

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten lakh rupees, or with both.

26. *Offences by Companies.*— (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

27. *Proceedings before the Tribunal to be judicial proceedings.*— All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian 45 of 1860. Penal Code.

28. *Members and staff of Tribunal to be public servants.*— The Chairperson, Vice-Chairperson and other Members and the officers and other employees of the Tribunal shall be deemed to be public servants within 45 of 1860. the meaning of section 21 of the Indian Penal Code.

29. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson, Vice-Chairperson or other Member of the Tribunal or any other person authorised by the Chairperson, Vice Chairperson or other Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

30. *Act to have overriding effect.*— Save as provided in the Public Liability Insurance Act, 1991, the 6 of 1991.

provisions of this shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

31. *Power to make rules.*— (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the particulars which an application shall contain, the documents and the fee which shall be accompanied with it and the limit of annual income of a person so as to enable him to make application without paying any fee, under sub-section (5) of section 4;

(b) any such matter in respect of which the tribunal shall have powers of a civil court, under clause (i) of sub-section (4) of section 5;

(c) the case or cases which, having regard to the nature of the questions involved, requires or require to be decided by a Bench of more than two members, under clause (d) of sub-section (3) of section 9;

(d) procedure for the investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson or other Member of the Tribunal under sub-section (3) of section 13;

(e) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson and other Members under section 14;

(f) financial and administrative powers of the Chairperson over the Benches under section 16;

(g) the salaries and allowances and conditions of service of the officers and other employees of the Tribunal under sub-section (3) of section 17;

(h) the person or the authority by whom, the manner in which and the purposes of environment for which the amount of compensation credited to the Environmental Relief Fund shall be utilised under sub-section (2) of section 22; and

(i) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 3(1)]

Heads under which compensation for damages may be claimed

(a) Death;

(b) Permanent, temporary, total or partial disability or other injury or sickness;

(c) Loss of wages due to total or partial disability or permanent or temporary disability;

(d) Medical expenses incurred for treatment of injuries or sickness;

(e) Damages to private property;

(f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;

(g) Expenses incurred by Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;

(h) Loss to Government or local authority arising out of, or connected with, the activity causing any damage;

(i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;

(j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

(k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;

(l) Loss and destruction of any property other than private property;

(m) Loss of business or employment or both;

(n) Any other claim arising out of or connected with, any activity of handling of hazardous substance.